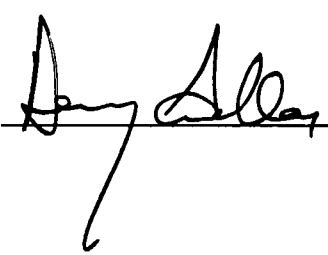


Legislative Council
Texas
1996

FILED DEC 11 1996

By 

H.B. No. 278

A BILL TO BE ENTITLED

AN ACT

relating to weapons searches of certain students.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter C, Chapter 37, Education Code, is amended by adding Section 37.084 to read as follows:

Sec. 37.084. WEAPONS SEARCHES OF STUDENTS ON PROBATION OR PAROLE. A school district peace officer, or other security personnel employed under Section 37.081(a), may, in cooperation with a law enforcement agency, search a student's person while the student is on school property or attending a school-sponsored or school-related activity on or off school property if:

(1) as a result of engaging in conduct punishable as a felony, or that contains the elements of an offense under Chapter 46, Penal Code, the student is:

(A) placed on probation by a juvenile court under Section 54.04(d)(1), Family Code;

(B) released under supervision as prescribed by Section 61.081(a), Human Resources Code; or

(C) released on parole under Section 61.084(f) or (g), Human Resources Code; and

(2) the purpose of the search is to determine only whether the student is carrying on or about the student's person a weapon or device listed under Section 46.01(1)-(14) or Section 46.01(16), Penal Code.

1 SECTION 2. This Act applies beginning with the 1997-1998
2 school year.

3 SECTION 3. The importance of this legislation and the
4 crowded condition of the calendars in both houses create an
5 emergency and an imperative public necessity that the
6 constitutional rule requiring bills to be read on three several
7 days in each house be suspended, and this rule is hereby suspended,
8 and that this Act take effect and be in force from and after its
9 passage, and it is so enacted.

SENT TO SENATE

for chief clerk use only

Bill or Resolution Number:

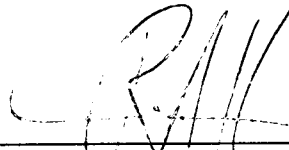
278

JOINT AUTHOR AUTHORIZATION

As primary author of HB 278 I hereby authorize the following joint author(s):
(bill or resolution #)

ALLEN

printed name of joint author #1



signature of joint author #1

3/5/97

printed name of joint author #2

signature of joint author #2

printed name of joint author #3

signature of joint author #3

printed name of joint author #4

signature of joint author #4



signature of primary author

3/5/97

date

SENT TO SENATE

COAUTHOR AUTHORIZATION-75TH LEGISLATURE

(please request your coauthors to sign this form
in lieu of the front or the back of the original bill)

For chief clerk use only

Bill or Resolution Number: hb 278


signature of primary author

H. Cuellar
printed name of primary author

12-11-96
Date

PERMISSION TO SIGN HB 278 HAS BEEN GIVEN TO (check only one of the following):
(bill or resolution #)

☒ ALL REPRESENTATIVES

☐ THE FOLLOWING REPRESENTATIVE(S): _____

I authorize the Chief Clerk to include my name as a coauthor of the legislation indicated above:

| | | | | | |
|------------------------|-------------|------------------------|-------------|-------------------------|-------------|
| <u>A2120 Alexander</u> | <u>Date</u> | <u>A2645 Cuellar</u> | <u>Date</u> | <u>A2935 Giddings</u> | <u>Date</u> |
| <u>A2115 Allen</u> | <u>Date</u> | <u>A2635 Culberson</u> | <u>Date</u> | <u>A2880 Glaze</u> | <u>Date</u> |
| <u>A2105 Alvarado</u> | <u>Date</u> | <u>A2670 Danburg</u> | <u>Date</u> | <u>A2985 Goodman</u> | <u>Date</u> |
| <u>A2135 Averitt</u> | <u>Date</u> | <u>A2675 Davila</u> | <u>Date</u> | <u>A2990 Goolsby</u> | <u>Date</u> |
| <u>A2160 Bailey</u> | <u>Date</u> | <u>A2625 Davis</u> | <u>Date</u> | <u>A3005 Gray</u> | <u>Date</u> |
| <u>A2200 Berlanga</u> | <u>Date</u> | <u>A2680 Delisi</u> | <u>Date</u> | <u>A3010 Greenberg</u> | <u>Date</u> |
| <u>A2250 Bonnen</u> | <u>Date</u> | <u>A3385 Denny</u> | <u>Date</u> | <u>A3020 Grusendorf</u> | <u>Date</u> |
| <u>A2275 Bosse</u> | <u>Date</u> | <u>A2705 Driver</u> | <u>Date</u> | <u>A3030 Gutierrez</u> | <u>Date</u> |
| <u>A2260 Brimer</u> | <u>Date</u> | <u>A2665 Dukes</u> | <u>Date</u> | <u>A3035 Haggerty</u> | <u>Date</u> |
| <u>A2255 Burnam</u> | <u>Date</u> | <u>A2660 Dunnam</u> | <u>Date</u> | <u>A2695 Hamric</u> | <u>Date</u> |
| <u>A2400 Carter</u> | <u>Date</u> | <u>A2650 Dutton</u> | <u>Date</u> | <u>A3170 Hartnett</u> | <u>Date</u> |
| <u>A2585 Chavez</u> | <u>Date</u> | <u>A2770 Edwards</u> | <u>Date</u> | <u>A3345 Hawley</u> | <u>Date</u> |
| <u>A2480 Chisum</u> | <u>Date</u> | <u>A2760 Ehrhardt</u> | <u>Date</u> | <u>A3180 Heflin</u> | <u>Date</u> |
| <u>A2525 Christian</u> | <u>Date</u> | <u>A2775 Eiland</u> | <u>Date</u> | <u>A3230 Hernandez</u> | <u>Date</u> |
| <u>A2520 Clark</u> | <u>Date</u> | <u>A2785 Elkins</u> | <u>Date</u> | <u>A3240 Hightower</u> | <u>Date</u> |
| <u>A2435 Coleman</u> | <u>Date</u> | <u>A2810 Farrar</u> | <u>Date</u> | <u>A3310 Hilbert</u> | <u>Date</u> |
| <u>A2565 Cook</u> | <u>Date</u> | <u>A2830 Finnell</u> | <u>Date</u> | <u>A3250 Hilderbran</u> | <u>Date</u> |
| <u>A2595 Corte</u> | <u>Date</u> | <u>A2840 Flores</u> | <u>Date</u> | <u>A3275 Hill</u> | <u>Date</u> |
| <u>A2600 Counts</u> | <u>Date</u> | <u>A2920 Gallego</u> | <u>Date</u> | <u>A3270 Hinojosa</u> | <u>Date</u> |
| <u>A2605 Crabb</u> | <u>Date</u> | <u>A2910 Galloway</u> | <u>Date</u> | <u>A3285 Hirschi</u> | <u>Date</u> |
| <u>A2610 Craddick</u> | <u>Date</u> | <u>A2930 Garcia</u> | <u>Date</u> | <u>A3305 Hochberg</u> | <u>Date</u> |

For chief clerk use only
Bill or Resolution Number: 278

| | | | | | |
|---------------------|------|---------------------|------|-------------------------|------|
| A3290 Hodge | Date | A3845 McReynolds | Date | A4435 Shields | Date |
| A3295 Holzheuser | Date | A3840 Merritt | Date | A4445 Siebert | Date |
| A3300 Horn | Date | A3850 Moffat | Date | A4525 Smith | Date |
| A3315 Howard | Date | A3860 Moreno | Date | A4530 Smithee | Date |
| A3355 Hunter | Date | A3865 Mowery | Date | A4550 Solis | Date |
| A3360 Hupp | Date | A3885 Naishtat | Date | A4505 Solomons | Date |
| A3375 Isett | Date | A3895 Nixon | Date | A4515 Staples | Date |
| A3380 Jackson | Date | A3875 Oakley | Date | A4510 Stiles | Date |
| A3415 Janek | Date | A3990 Ogden | Date | A4570 Swinford | Date |
| A3405 Jones, Delwin | Date | A3880 Oliveira | Date | A4585 Talton | Date |
| A3400 Jones, Jesse | Date | A3886 Olivo | Date | A4605 Telford | Date |
| A3440 Junell | Date | A4010 Palmer | Date | A4630 Thompson | Date |
| A3460 Kamel | Date | A4070 Patterson | Date | A4635 Tillery | Date |
| A3475 Keel | Date | A4180 Pickett | Date | A4640 Torres | Date |
| A3480 Keffer | Date | A4185 Pitts | Date | A2730 Turner, Bob | Date |
| A3465 King | Date | A4110 Place | Date | A4685 Turner, Sylvester | Date |
| A3485 Krusee | Date | A4190 Price | Date | A4690 Uher | Date |
| A3490 Kubiak | Date | A4200 Puente | Date | A4720 Van de Putte | Date |
| A3450 Kuempel | Date | A4230 Rabuck | Date | A4990 Walker | Date |
| A3510 Laney | Date | A4210 Ramsay | Date | A4995 West | Date |
| A3605 Lewis, Glenn | Date | A4240 Rangel | Date | A5035 Williams | Date |
| A3600 Lewis, Ron | Date | A4235 Raymond | Date | A5010 Williamson | Date |
| A3615 Longoria | Date | A4245 Reyna, Arthur | Date | A5000 Wilson | Date |
| A3620 Luna, Vilma | Date | A4236 Reyna, Elvira | Date | A5020 Wise | Date |
| A3715 Madden | Date | A4260 Rhodes | Date | A5015 Wohlgemuth | Date |
| A3750 Marchant | Date | A4315 Rodriguez | Date | A4980 Wolens | Date |
| A2700 Maxey | Date | A4370 Sadler | Date | A5005 Woolley | Date |
| A3665 McCall | Date | A4420 Seaman | Date | A5025 Yarbrough | Date |
| A3650 McClendon | Date | A4460 Serna | Date | A5040 Zbranek | Date |

HOUSE COMMITTEE REPORT

97 MAR -7 PM 6:31
HOUSE OF REPRESENTATIVES

1st Printing

By Cuellar, Allen

H.B. No. 278

Substitute the following for H.B. No. 278:

By Smith

C.S.H.B. No. 278

A BILL TO BE ENTITLED

AN ACT

relating to searches of certain students and children.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 42.18, Code of Criminal Procedure, is amended by adding Section 30 to read as follows:

Sec. 30. FIREARM PROHIBITION AS CONDITION OF PAROLE.

(a) The parole panel shall prohibit as a condition of release on parole a person transferred to the custody of the pardons and paroles division for release on parole under Section 61.084(f) or (g), Human Resources Code, from possessing, carrying, using, or exhibiting a firearm if the person is transferred for conduct that violates a penal law that includes as an element of the offense the possession, carrying, using, or exhibiting of a firearm.

(b) A parole officer who is required, in the scope of the officer's employment and duties, to be in close proximity to a person subject to Subsection (a), may search the person, or property in immediate possession of the person, to determine if the person is possessing, carrying, using, or exhibiting a firearm.

(c) A parole officer is not required to have reasonable suspicion that the person is possessing, carrying, using, or exhibiting a firearm to conduct a search under Subsection (b).

SECTION 2. Subchapter C, Chapter 37, Education Code, is amended by adding Section 37.084 to read as follows:

Sec. 37.084. SEARCHES OF CERTAIN STUDENTS. (a) A teacher,

1 a school official, or a peace officer acting on the request of a
2 school official, may search a student's person while the student is
3 on school property or attending a school-sponsored or
4 school-related activity on or off school property if:

5 (1) reasonable suspicion exists to suspect that the
6 search will produce evidence that the student has engaged in
7 conduct that violates:

8 (A) a penal law of this state or of the United
9 States; or

10 (B) a rule adopted by the board of trustees of
11 the school district; and

12 (2) the scope of the search is reasonable.

13 (b) The scope of a search conducted under Subsection (a) is
14 reasonable if the method used to search the student:

15 (1) is reasonably related to the objective of the
16 search; and

17 (2) is not excessively intrusive when considering the
18 age and gender of the student and the suspected conduct under
19 Subsection (a)(1).

20 SECTION 3. Chapter 54, Family Code, is amended by adding
21 Section 54.046 to read as follows:

22 Sec. 54.046. FIREARMS PROHIBITION AS CONDITION OF PROBATION.

23 (a) If the court places a child on probation under Section
24 54.04(d) for conduct that violates a penal law that includes as an
25 element the possession, carrying, using, or exhibiting of a
26 firearm, the court shall, as a condition of probation, prohibit the
27 child from possessing, carrying, using, or exhibiting a firearm.

1 (b) A juvenile probation officer who is required, in the
2 scope of the officer's employment and duties, to be in close
3 proximity to a child subject to Subsection (a), may search the
4 child, or property in immediate possession of the child, to
5 determine if the child is possessing, carrying, using, or
6 exhibiting a firearm.

7 (c) A juvenile probation officer is not required to have
8 reasonable suspicion that the child is possessing, carrying, using,
9 or exhibiting a firearm to conduct a search under Subsection (b).

10 SECTION 4. Subchapter F, Chapter 61, Human Resources Code,
11 is amended by adding Section 61.085 to read as follows:

12 Sec. 61.085. FIREARMS PROHIBITION AS CONDITION OF RELEASE.

13 (a) If the commission releases a child under supervision under
14 Section 61.081(a) who was committed to the commission for conduct
15 that violates a penal law that includes as an element the
16 possession, carrying, using, or exhibiting of a firearm, the
17 commission shall, as a condition of release, prohibit the child
18 from possessing, carrying, using, or exhibiting a firearm.

19 (b) A parole officer or a juvenile probation officer who is
20 required, in the scope of the officer's employment and duties, to
21 be in close proximity to a child subject to Subsection (a), may
22 search the child, or property in immediate possession of the child,
23 to determine if the child is possessing, carrying, using, or
24 exhibiting a firearm.

25 (c) A parole officer or a juvenile probation officer is not
26 required to have reasonable suspicion that the child is possessing,
27 carrying, using, or exhibiting a firearm to conduct a search under

1 Subsection (b).

2 SECTION 5. (a) Except as provided by Subsection (b) of this
3 section, this Act takes effect immediately. The change in law made
4 by this Act applies only to a child placed on probation under
5 Section 54.04(d)(1), Family Code, transferred to the pardons and
6 paroles division of the Texas Department of Criminal Justice under
7 Section 61.084(f) or (g), Human Resources Code, or released under
8 supervision under Section 61.081(a), Human Resources Code, on or
9 after the effective date of this Act.

10 (b) Section 2 of this Act applies beginning with the
11 1997-1998 school year.

12 SECTION 6. The importance of this legislation and the
13 crowded condition of the calendars in both houses create an
14 emergency and an imperative public necessity that the
15 constitutional rule requiring bills to be read on three several
16 days in each house be suspended, and this rule is hereby suspended,
17 and that this Act take effect and be in force according to its
18 terms, and it is so enacted.

COMMITTEE REPORT

The Honorable James E. "Pete" Laney
Speaker of the House of Representatives

3/5/97
(date)

Sir:

We, your COMMITTEE ON JUVENILE JUSTICE AND FAMILY ISSUES

to whom was referred HB 278 have had the same under consideration and beg to report back with the recommendation that it

- ☐ do pass, without amendment.
- ☐ do pass, with amendment(s).
- ☒ do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.
- ☒ yes ☐ no A fiscal note was requested.
- ☐ yes ☒ no A criminal justice policy impact statement was requested.
- ☐ yes ☒ no An equalized educational funding impact statement was requested.
- ☐ yes ☒ no An actuarial analysis was requested.
- ☐ yes ☒ no A water development policy impact statement was requested.
- ☐ yes ☒ no A tax equity note was requested.
- ☐ The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars.

For Senate Measures: House Sponsor _____

Joint Sponsors: _____ / _____ / _____

Co-Sponsors: _____

The measure was reported from Committee by the following vote:

| | AYE | NAY | PNV | ABSENT |
|-------------------------|-----|-----|-----|--------|
| Goodman, Chair | ✓ | | | |
| Staples, Vice-chair | ✓ | | | |
| Jones | | | | ✓ |
| M ^c Clendon | ✓ | | | |
| M ^c Reynolds | ✓ | | | |
| Naishtat | ✓ | | | |
| Reyna | ✓ | | | |
| Smith | ✓ | | | |
| Williams | | | | ✓ |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

Total

7 aye
0 nay
0 present, not voting
2 absent

Lesly Goodman
CHAIR

BILL ANALYSIS

JUVENILE JUSTICE & FAMILY ISSUES

C.S.H.B. 278

By Cuellar

3-6-97

Committee Report (Substituted)

BACKGROUND

There is a significant need to allow schools to stop students from bringing weapons onto the school grounds.

PURPOSE

This bill proposes to grant school district peace officers and school security guards the ability to conduct weapons searches of students who are on probation, released under supervision, or on parole.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency or institution.

SECTION BY SECTION ANALYSIS

Section 1: Amends **Subchapter C, Chapter 37, Education Code** by adding **Section 37.084** which allows a school district peace officer or security guard (under Section 37.081(a)), in cooperation with a law enforcement agency, to search a student at a school event if two conditions are met:

- 1) the student has committed a felony and as a result is on probation, released under supervision, or on parole, and,
- 2) the search is only to check for weapons listed under Section 46.01(1)-(14) or Section 46.01(16), Penal Code.

Section 2: Effective date: beginning with the 1997-1998 school year.

Section 3: Emergency clause.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute adds a prohibition for the possession, carrying, use, or exhibition of firearms as a condition of probation, parole, or supervised release from the Texas Youth Commission. It also requires that a reasonable suspicion exist before the student is searched for weapons or penal violations, or violations of school district rules. The scope of the search must also be reasonable.

SUMMARY OF COMMITTEE ACTION

HB 278

February 12, 1997 10:30AM
Considered in public hearing
Testimony taken in committee
Left pending in committee

March 5, 1997 10:30AM
Considered in public hearing
Committee substitute considered in committee
Reported favorably as substituted

WITNESS LIST

HB 278
HOUSE COMMITTEE REPORT
Juvenile Justice & Family Issues Committee

February 12, 1997 - 10:30A

For: GREEN. BOB (PNFT, TFA)
HOLLINGSWORTH, LONNIE (TCTA)
MARTIN, TOM (TX POL CHF ASSN)

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE
75th Regular Session

March 6, 1997

To: Honorable Toby Goodman, Chair
Committee on Juvenile Justice and Family
Issues
House
Austin, Texas

IN RE: House Bill No. 278,
Committee Report 1st House,
Substituted
By: Cuellar

From: John Keel, Director

In response to your request for a Fiscal Note on HB278 (Relating to searches of certain students and children.) this office has determined the following:

| |
|--|
| Biennial Net Impact to General Revenue Funds by HB278-Committee Report 1st House, Substituted |
|--|

No significant fiscal implication to the State is anticipated.

No significant fiscal implication to units of local government is anticipated.

Source: Agencies: 405 Department of Public Safety
701 Texas Education Agency - Administration

LBB Staff: JK, CB, TH, DH

LEGISLATIVE BUDGET BOARD

Austin, Texas

**FISCAL NOTE
75th Regular Session**

February 7, 1997

To: Honorable Toby Goodman, Chair
Committee on Juvenile Justice and Family
Issues
House
Austin, Texas

IN RE: House Bill No. 278
By: Cuellar

From: John Keel, Director

In response to your request for a Fiscal Note on HB278 (Relating to weapons searches of certain students.) this office has determined the following:

Biennial Net Impact to General Revenue Funds by HB278-As Introduced

No fiscal implication to the State is anticipated.

No fiscal implication to units of local government is anticipated.

Source: Agencies: 405 Department of Public Safety
701 Texas Education Agency - Administration

LBB Staff: JK, DH

5

ADOPTED *As Amended*

APR - 9 1997

Sharon Carter
Chief Clerk
House of Representatives

RM

By *Cuellar*

H.B. No. 278

Substitute the following for H.B. No. 278:

By *[Signature]*

C.S. H.B. No. 278

A BILL TO BE ENTITLED

AN ACT

<EOH>

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Sec. 30. FIREARM PROHIBITION AS CONDITION OF PAROLE. (a)
The parole panel shall prohibit as a condition of release on parole
a person transferred to the custody of the pardons and paroles
division for release on parole under Section 61.084(f) or (g),
Human Resources Code, from possessing, carrying, using, or
exhibiting a firearm if the person is transferred for conduct that
violates a penal law that includes as an element of the offense the
possession, carrying, using, or exhibiting of a firearm.

(b) A parole officer who is required, in the scope of the
officer's employment and duties, to be in close proximity to a
person subject to Subsection (a), may search the person, or
property in immediate possession of the person, to determine if the
person is possessing, carrying, using, or exhibiting a firearm.

(c) A parole officer is not required to have reasonable
suspicion that the person is possessing, carrying, using, or
exhibiting a firearm to conduct a search under Subsection (b).

SECTION 2. Subchapter C, Chapter 37, Education Code, is

1 amended by adding Section 37.084 to read as follows:

2 Sec. 37.084. SEARCHES OF CERTAIN STUDENTS. (a) A teacher,
3 a school official, or a peace officer acting on the request of a
4 school official, may search a student's person while the
5 student is on school property or attending a school-sponsored or
6 school-related activity on or off school property if:

7 (1) reasonable suspicion exists to suspect that
8 the search will produce evidence that the student has
9 engaged in conduct that violates:

10 (A) a penal law of this state or of the United
11 States; or

12 (B) a rule adopted by the board of trustees of
13 the school district; and

14 (2) the scope of the search is reasonable.

15 (b) The scope of a search conducted under Subsection (a) is
16 reasonable if the method used to search the student:

17 (1) is reasonably related to the objective of the
18 search; and

19 (2) is not excessively intrusive when considering the
20 age and gender of the student and the suspected conduct under
21 Subsection (a)(1).

22 SECTION 3. Chapter 54, Family Code, is amended by adding
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24 Sec. 54.046. FIREARMS PROHIBITION AS CONDITION OF PROBATION.

25 (a) If the court places a child on probation under Section
26 54.04(d) for conduct that violates a penal law that includes as an
27 element the possession, carrying, using, or exhibiting of a

1 firearm, the court shall, as a condition of probation, prohibit the
2 child from possessing, carrying, using, or exhibiting a firearm.

3 (b) A juvenile probation officer who is required, in the
4 scope of the officer's employment and duties, to be in close
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10 reasonable suspicion that the child is possessing, carrying, using,
11 or exhibiting a firearm to conduct a search under Subsection (b).

12 SECTION 4. Subchapter F, Chapter 61, Human Resources Code, is
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14 Sec. 61.085. FIREARMS PROHIBITION AS CONDITION OF RELEASE.

15 (a) If the commission releases a child under supervision under
16 Section 61.081(a) who was committed to the commission for conduct
17 that violates a penal law that includes as an element the
18 possession, carrying, using, or exhibiting of a firearm, the
19 commission shall, as a condition of release, prohibit the child
20 from possessing, carrying, using, or exhibiting a firearm.

21 (b) A parole officer or a juvenile probation officer who is
22 required, in the scope of the officer's employment and duties, to
23 be in close proximity to a child subject to Subsection (a), may
24 search the child, or property in immediate possession of the child,
25 to determine if the child is possessing, carrying, using, or
26 exhibiting a firearm.

27 (c) A parole officer or a juvenile probation officer is not

1 required to have reasonable suspicion that the child is possessing,
2 carrying, using, or exhibiting a firearm to conduct a search under
3 Subsection (b).

4 SECTION 5. (a) Except as provided by Subsection (b) of this
5 section, this Act takes effect immediately. The change in law made
6 by this Act applies only to a child placed on probation under
7 Section 54.04(d)(1), Family Code, transferred to the pardons and
8 paroles division of the Texas Department of Criminal Justice under
9 Section 61.084(f) or (g), Human Resources Code, or released under
10 supervision under Section 61.081(a), Human Resources Code, on or
11 after the effective date of this Act.

12 (b) Section 2 of this Act applies beginning with the 1997-
13 1998 school year.

14 SECTION 6. The importance of this legislation and the crowded
15 condition of the calendars in both houses create an emergency and
16 an imperative public necessity that the constitutional rule
17 requiring bills to be read on three several days in each house be
18 suspended, and this rule is hereby suspended, and that this Act
19 take effect and be in force according to its terms, and it is so
20 enacted.



ADOPTED

APR - 9 1997

Sharon Carter

LIST OF HOUSE AMENDMENTS CONSIDERED TODAY

HB278-Second Reading

| <u>AMENDMENT#</u> | <u>AUTHOR</u> | <u>DESCRIPTION</u> | <u>ACTION</u> |
|-------------------|---------------|--------------------|---------------|
| 1 | Allen | Amendment | Tabled |
| 2 | Hightower | Amendment | Adopted |

**2ND READING
ENGROSSMENT**

By Cuellar

H.B. No. 278

A BILL TO BE ENTITLED

AN ACT

relating to searches of certain students and children.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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(a) The parole panel shall prohibit as a condition of release on parole a person transferred to the custody of the pardons and paroles division for release on parole under Section 61.084(f) or (g), Human Resources Code, from possessing, carrying, using, or exhibiting a firearm if the person is transferred for conduct that violates a penal law that includes as an element of the offense the possession, carrying, using, or exhibiting of a firearm.

(b) A parole officer who is required, in the scope of the officer's employment and duties, to be in close proximity to a person subject to Subsection (a), may search the person, or property in immediate possession of the person, to determine if the person is possessing, carrying, using, or exhibiting a firearm.

(c) A parole officer is not required to have reasonable suspicion that the person is possessing, carrying, using, or exhibiting a firearm to conduct a search under Subsection (b).

SECTION 2. Subchapter C, Chapter 37, Education Code, is amended by adding Section 37.084 to read as follows:

Sec. 37.084. SEARCHES OF CERTAIN STUDENTS. (a) A teacher,

1 a school official, or a peace officer acting on the request of a
2 school official, may search a student's person while the student is
3 on school property or attending a school-sponsored or
4 school-related activity on or off school property if:

5 (1) reasonable suspicion exists to suspect that the
6 search will produce evidence that the student has engaged in
7 conduct that violates:

8 (A) a penal law of this state or of the United
9 States; or

10 (B) a rule adopted by the board of trustees of
11 the school district; and

12 (2) the scope of the search is reasonable.

13 (b) The scope of a search conducted under Subsection (a) is
14 reasonable if the method used to search the student:

15 (1) is reasonably related to the objective of the
16 search; and

17 (2) is not excessively intrusive when considering the
18 age and gender of the student and the suspected conduct under
19 Subsection (a)(1).

20 SECTION 3. Chapter 54, Family Code, is amended by adding
21 Section 54.046 to read as follows:

22 Sec. 54.046. FIREARMS PROHIBITION AS CONDITION OF PROBATION.

23 (a) If the court places a child on probation under Section
24 54.04(d) for conduct that violates a penal law that includes as an
25 element the possession, carrying, using, or exhibiting of a
26 firearm, the court may, as a condition of probation, prohibit the
27 child from possessing, carrying, using, or exhibiting a firearm.

1 (b) A juvenile probation officer who is required, in the
2 scope of the officer's employment and duties, to be in close
3 proximity to a child subject to Subsection (a), may search the
4 child, or property in immediate possession of the child, to
5 determine if the child is possessing, carrying, using, or
6 exhibiting a firearm.

7 (c) A juvenile probation officer is not required to have
8 reasonable suspicion that the child is possessing, carrying, using,
9 or exhibiting a firearm to conduct a search under Subsection (b).

10 SECTION 4. Subchapter F, Chapter 61, Human Resources Code,
11 is amended by adding Section 61.085 to read as follows:

12 Sec. 61.085. FIREARMS PROHIBITION AS CONDITION OF RELEASE.

13 (a) If the commission releases a child under supervision under
14 Section 61.081(a) who was committed to the commission for conduct
15 that violates a penal law that includes as an element the
16 possession, carrying, using, or exhibiting of a firearm, the
17 commission shall, as a condition of release, prohibit the child
18 from possessing, carrying, using, or exhibiting a firearm.

19 (b) A parole officer or a juvenile probation officer who is
20 required, in the scope of the officer's employment and duties, to
21 be in close proximity to a child subject to Subsection (a), may
22 search the child, or property in immediate possession of the child,
23 to determine if the child is possessing, carrying, using, or
24 exhibiting a firearm.

25 (c) A parole officer or a juvenile probation officer is not
26 required to have reasonable suspicion that the child is possessing,
27 carrying, using, or exhibiting a firearm to conduct a search under

1 Subsection (b).

2 SECTION 5. (a) Except as provided by Subsection (b) of this
3 section, this Act takes effect immediately. The change in law made
4 by this Act applies only to a child placed on probation under
5 Section 54.04(d)(1), Family Code, transferred to the pardons and
6 paroles division of the Texas Department of Criminal Justice under
7 Section 61.084(f) or (g), Human Resources Code, or released under
8 supervision under Section 61.081(a), Human Resources Code, on or
9 after the effective date of this Act.

10 (b) Section 2 of this Act applies beginning with the
11 1997-1998 school year.

12 SECTION 6. The importance of this legislation and the
13 crowded condition of the calendars in both houses create an
14 emergency and an imperative public necessity that the
15 constitutional rule requiring bills to be read on three several
16 days in each house be suspended, and this rule is hereby suspended,
17 and that this Act take effect and be in force according to its
18 terms, and it is so enacted.

HOUSE ENGROSSMENT

By Cuellar

H.B. No. 278

A BILL TO BE ENTITLED

AN ACT

relating to searches of certain students and children.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 42.18, Code of Criminal Procedure, is amended by adding Section 30 to read as follows:

Sec. 30. FIREARM PROHIBITION AS CONDITION OF PAROLE.

(a) The parole panel shall prohibit as a condition of release on parole a person transferred to the custody of the pardons and paroles division for release on parole under Section 61.084(f) or (g), Human Resources Code, from possessing, carrying, using, or exhibiting a firearm if the person is transferred for conduct that violates a penal law that includes as an element of the offense the possession, carrying, using, or exhibiting of a firearm.

(b) A parole officer who is required, in the scope of the officer's employment and duties, to be in close proximity to a person subject to Subsection (a), may search the person, or property in immediate possession of the person, to determine if the person is possessing, carrying, using, or exhibiting a firearm.

(c) A parole officer is not required to have reasonable suspicion that the person is possessing, carrying, using, or exhibiting a firearm to conduct a search under Subsection (b).

SECTION 2. Subchapter C, Chapter 37, Education Code, is amended by adding Section 37.084 to read as follows:

Sec. 37.084. SEARCHES OF CERTAIN STUDENTS. (a) A teacher,

1 a school official, or a peace officer acting on the request of a
2 school official, may search a student's person while the student is
3 on school property or attending a school-sponsored or
4 school-related activity on or off school property if:

5 (1) reasonable suspicion exists to suspect that the
6 search will produce evidence that the student has engaged in
7 conduct that violates:

8 (A) a penal law of this state or of the United
9 States; or

10 (B) a rule adopted by the board of trustees of
11 the school district; and

12 (2) the scope of the search is reasonable.

13 (b) The scope of a search conducted under Subsection (a) is
14 reasonable if the method used to search the student:

15 (1) is reasonably related to the objective of the
16 search; and

17 (2) is not excessively intrusive when considering the
18 age and gender of the student and the suspected conduct under
19 Subsection (a)(1).

20 (c) This section does not limit the authority of school
21 personnel to conduct a search of a student as permitted by federal
22 law.

23 SECTION 3. Chapter 54, Family Code, is amended by adding
24 Section 54.046 to read as follows:

25 Sec. 54.046. FIREARMS PROHIBITION AS CONDITION OF PROBATION.

26 (a) If the court places a child on probation under Section
27 54.04(d) for conduct that violates a penal law that includes as an

1 element the possession, carrying, using, or exhibiting of a
2 firearm, the court may, as a condition of probation, prohibit the
3 child from possessing, carrying, using, or exhibiting a firearm.

4 (b) A juvenile probation officer who is required, in the
5 scope of the officer's employment and duties, to be in close
6 proximity to a child subject to Subsection (a), may search the
7 child, or property in immediate possession of the child, to
8 determine if the child is possessing, carrying, using, or
9 exhibiting a firearm.

10 (c) A juvenile probation officer is not required to have
11 reasonable suspicion that the child is possessing, carrying, using,
12 or exhibiting a firearm to conduct a search under Subsection (b).

13 SECTION 4. Subchapter F, Chapter 61, Human Resources Code,
14 is amended by adding Section 61.085 to read as follows:

15 Sec. 61.085. FIREARMS PROHIBITION AS CONDITION OF RELEASE.

16 (a) If the commission releases a child under supervision under
17 Section 61.081(a) who was committed to the commission for conduct
18 that violates a penal law that includes as an element the
19 possession, carrying, using, or exhibiting of a firearm, the
20 commission shall, as a condition of release, prohibit the child
21 from possessing, carrying, using, or exhibiting a firearm.

22 (b) A parole officer or a juvenile probation officer who is
23 required, in the scope of the officer's employment and duties, to
24 be in close proximity to a child subject to Subsection (a), may
25 search the child, or property in immediate possession of the child,
26 to determine if the child is possessing, carrying, using, or
27 exhibiting a firearm.

1 (c) A parole officer or a juvenile probation officer is not
2 required to have reasonable suspicion that the child is possessing,
3 carrying, using, or exhibiting a firearm to conduct a search under
4 Subsection (b).

5 SECTION 5. (a) Except as provided by Subsection (b) of this
6 section, this Act takes effect immediately. The change in law made
7 by this Act applies only to a child placed on probation under
8 Section 54.04(d)(1), Family Code, transferred to the pardons and
9 paroles division of the Texas Department of Criminal Justice under
10 Section 61.084(f) or (g), Human Resources Code, or released under
11 supervision under Section 61.081(a), Human Resources Code, on or
12 after the effective date of this Act.

13 (b) Section 2 of this Act applies beginning with the
14 1997-1998 school year.

15 SECTION 6. The importance of this legislation and the
16 crowded condition of the calendars in both houses create an
17 emergency and an imperative public necessity that the
18 constitutional rule requiring bills to be read on three several
19 days in each house be suspended, and this rule is hereby suspended,
20 and that this Act take effect and be in force according to its
21 terms, and it is so enacted.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE
75th Regular Session

March 6, 1997

To: Honorable Toby Goodman, Chair
Committee on Juvenile Justice and Family
Issues
House
Austin, Texas

IN RE: House Bill No. 278,
Committee Report 1st House,
Substituted
By: Cuellar

From: John Keel, Director

In response to your request for a Fiscal Note on HB278 (Relating to searches of certain students and children.) this office has determined the following:

| |
|---|
| <p>Biennial Net Impact to General Revenue Funds by HB278-Committee Report 1st House, Substituted</p> |
|---|

No significant fiscal implication to the State is anticipated.

No significant fiscal implication to units of local government is anticipated.

Source: Agencies: 405 Department of Public Safety
701 Texas Education Agency - Administration

LBB Staff: JK, CB, TH, DH

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE
75th Regular Session

February 7, 1997

To: Honorable Toby Goodman, Chair
Committee on Juvenile Justice and Family
Issues
House
Austin, Texas

IN RE: House Bill No. 278
By: Cuellar

From: John Keel, Director

In response to your request for a Fiscal Note on HB278 (Relating to weapons searches of certain students.) this office has determined the following:

Biennial Net Impact to General Revenue Funds by HB278-As Introduced

No fiscal implication to the State is anticipated.

No fiscal implication to units of local government is anticipated.

Source: Agencies: 405 Department of Public Safety
701 Texas Education Agency - Administration

LBB Staff: JK, DH

TAG FORM

RECEIVED
SECRETARY OF SENATE

MAY 18 P 3:48

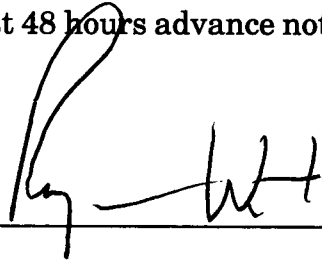
5-18-97

Austin, Texas

Date

To the Chairman of the Committee on CRIMINAL JUSTICE:

Pursuant to Senate Rule 11.20, I hereby request 48 hours advance notice in writing of the time and place of the hearing on H. B. No. 278.



Give the original of this form to Calendar Clerk for placement on the bill, give one copy to the Secretary of the Senate's office, and one copy to the Chairman of the committee to which the bill was referred.

A BILL TO BE ENTITLED
AN ACTBy Ray Allen

Relating to weapons searches of certain students.

12-11-96 Filed with the Chief Clerk

JAN 30 1997 Read first time and referred to Committee on Juvenile Justice & Family Issues

MAR 05 1997 Reported favorably ~~(unamended)~~
(as substituted)

MAR 10 1997 Sent to Committee on (Calendars)
~~(Juvenile Justice & Family Issues)~~

APR 9 1997 Read second time (comm. subst.) (amended); passed to third reading ~~(failed)~~ by a (non-record vote)
~~(record vote of _____ yeas, _____ nays, _____ present, not voting)~~

Constitutional rule requiring bills to be read on three several days suspended (failed to suspend)
by a vote of _____ yeas, _____ nays, _____ present, not voting

APR 10 1997 Read third time (amended); finally passed ~~(failed to pass)~~ by a ~~(non-record vote)~~
(record vote of 143 yeas, 0 nays, 1 present, not voting)

APR 11 1997 Engrossed

APR 11 1997 Sent to Senate

Sharon Carter

CHIEF CLERK OF THE HOUSE

OTHER HOUSE ACTION:

APR 10 1997

APR 11 1997 Received from the House

APR 14 1997 Read and referred to Committee on CRIMINAL JUSTICE

Reported favorably _____

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time

Ordered not printed

Laid before the Senate

Senate and Constitutional Rules to permit consideration suspended by (unanimous consent)
(_____ yeas, _____ nays)

Read second time, _____, and passed to third reading by (unanimous consent)
(a viva voce vote)
(_____ yeas, _____ nays)

Senate and Constitutional 3 Day Rules suspended by a vote of _____ yeas, _____ nays

Read third time, _____, and passed by (a viva voce vote)
(_____ yeas, _____ nays)

Returned to the House

SECRETARY OF THE SENATE

OTHER SENATE ACTION:

_____ Returned from the Senate (as substituted)
(with amendments)

_____ House concurred in Senate amendments by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House refused to concur in Senate amendments and requested the appointment of a conference committee
by a (non-record vote) (record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House conferees appointed: _____, Chair; _____,
_____, _____, _____

_____ Senate granted House request. Senate conferees appointed: _____, Chair;
_____, _____, _____, _____

_____ Conference committee report adopted (rejected) by the House by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ Conference committee report adopted (rejected) by the Senate by a (viva voce vote)
(record vote of _____ yeas, _____ nays)

97 MAR -7 PM 3:31
HOUSE OF REPRESENTATIVES